IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.502 OF 2007
IN
NOTICE OF MOTION NO.534 OF 2006
IN
WRIT PETITION NO.704 OF 2006

Rambhajan Jaiswal & Anr. ..Petitioners.

V/s.

The State of Maharashtra & Ors. ..Respondents.

Mr.Deepak Pandey i/b. Ditendra Mishra for petitioners.

Mr.Mugdha Jadhav, AGP for respodnent.

CORAM: A.M.KHANWILKAR,J

DATE : NOVEMBER 30, 2007.

P.C. :

1. Perused the affidavit in support of the Motion. It is obvious that this Petition was dismissed for default on 5th June, 2006. Even on the earlier occasion, by way of indulgence this Court restored the matter. Once again the Petitioner took out Notice of Motion No.342 of 2006 for restoration of the Writ Petition, which was dismissed on 14th August, 2006 again because of default. Petitioner took out Notice of Motion No.534 of 2006 to restore Notice of Motion No.342 of 2006, which was also dismissed for default on 9th January, 2007.

2. The explanation offered for dismissal of the later Motion is that he was unable to take steps within time on account of personal difficulty arising out of daughter's marriage and thereafter, one of relative expired at the native place. The Petitioner candidly concedes in the affidavit that he was aware about dismissal of the Motion as he was informed by the advocate. If it is so, it is not a case of mistake of the advocate, to be ignored so that the litigant should not suffer. In the present case, the Petitioners are found to be not diligent and have neglected the proceedings. As a result, no indulgence is shown in the fact situation of the present case. Hence, dismissed.

(A.M.KHANWILKAR,J)